



*Office of Inspector General  
Export-Import Bank  
of the United States*

# **Audit of EXIM's Contracting Process for Awarding Task Orders Under OASIS SB**

*September 30, 2022*

*OIG-AR-22-06*

*The Export-Import Bank of the United States (EXIM or agency) is the official export credit agency of the United States (U.S.). EXIM is an independent, self-financing executive agency and a wholly-owned U.S. government corporation. EXIM’s mission is to support jobs in the United States by facilitating the export of U.S. goods and services. EXIM provides competitive export financing and ensures a level playing field for U.S. exports in the global marketplace.*

*The Office of Inspector General (OIG), an independent office within EXIM, was statutorily created in 2002 and organized in 2007. The mission of EXIM OIG is to conduct and supervise audits, investigations, inspections, and evaluations related to the agency’s programs and operations; provide leadership and coordination as well as recommend policies that will promote economy, efficiency, and effectiveness in such programs and operations; and prevent and detect fraud, waste, abuse, and mismanagement.*

*This audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.*



*Office of Inspector General*

To: Adam Martinez  
Senior Vice President and Chief Management Officer

From: Jennifer Fain  
Assistant Inspector General for Audits and Evaluations (Acting) 

Subject: Audit of EXIM's Contracting Process for Awarding Task Orders Under OASIS SB

Date: September 30, 2022

Attached is the final report on the Audit of EXIM's Contracting Process for Awarding Task Orders Under OASIS Small Business (SB). The objective of this audit was to assess the effectiveness of the agency's existing controls over contracts for services using the U.S. General Services Administration's multiple-award, indefinite delivery/indefinite quantity (IDIQ) contracts and to determine compliance with the Federal Acquisition Regulation (FAR).

This report contains seven recommendations to improve the effectiveness of EXIM's contracting process for awarding task orders under OASIS SB. EXIM management concurred with all seven recommendations (see Appendix B). We consider management's proposed actions to be responsive. The recommendations will be closed upon completion and verification of the proposed actions.

We appreciate the cooperation and courtesies provided to our office during the audit. If you have questions, please contact me at (202) 565-3439 or [jennifer.fain@exim.gov](mailto:jennifer.fain@exim.gov) or Courtney Potter at (202) 565-3976 or [courtney.potter@exim.gov](mailto:courtney.potter@exim.gov). You can obtain additional information about EXIM OIG and the Inspector General Act of 1978 at [www.exim.gov/about/oig](http://www.exim.gov/about/oig).

# EXECUTIVE SUMMARY

Audit of Contracting Process OASIS SB Task Orders  
OIG-AR-22-06 September 30, 2022

## Why We Did This Audit

EXIM's Office of Contracting Services (OCS) is responsible for facilitating the acquisition and procurement process at EXIM. OCS employs Contracting Officers (COs) who have the authority to enter, administer, and/or terminate contracts, as well as make determinations and findings related to contracts.

The OIG received an anonymous complaint alleging that two task orders were awarded improperly. Accordingly, we conducted this audit to assess the effectiveness of EXIM's existing controls over contracts for services using the U.S. General Services Administration's (GSA) multiple-award, indefinite delivery/indefinite quantity contracts and to determine compliance with the Federal Acquisition Regulation.

## What We Recommend

We made seven recommendations to improve the effectiveness of EXIM's contracting process for awarding task orders using GSA's One Acquisition Solution for Integrated Services (OASIS) Small Business (SB) contract vehicle and maintenance of contract files.

## What We Found

EXIM improperly awarded two task orders under the OASIS SB contract vehicle as 8(a) small business set-asides, valued at approximately \$4.1 million. We questioned these costs because EXIM was not authorized to make direct awards to the selected vendors.

According to EXIM, the agency was not aware that the ability to direct award task orders for socio-economic reasons using the contract vehicle was not allowed beginning in January 2018. An outdated pool listing was utilized by OCS to identify the vendors as 8(a) small businesses for direct award. Both vendors exited the Small Business Administration 8(a) Business Development program prior to acquisition planning and contract award. The improper awards occurred, in part, because EXIM's existing internal controls over the contracting process for awarding task orders using the OASIS SB contract vehicle were not effective.

We also found that EXIM did not properly document its procurement processes associated with the two task orders. Specifically, the COs did not properly document price reasonableness determinations for the two task orders reviewed. In addition, the contracting files we reviewed contained incomplete documentation. Neither of the contract files contained evidence that documentation requirements were waived by OCS.

As a result of our audit, EXIM management indicated an awareness of the deficiencies and are taking steps to address the issues. However, we did not determine if the response is adequate to resolve the issues presented in this audit report, as evaluating the actions taken was outside of the scope of the audit.

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
TABLE OF CONTENTS.....	ii
ABBREVIATIONS AND GLOSSARY .....	iii
INTRODUCTION.....	4
SCOPE AND METHODOLOGY.....	4
BACKGROUND.....	5
AUDIT RESULTS .....	6
Finding 1: EXIM Improperly Direct Awarded Two OASIS Small Business Task Orders .....	6
Finding 2: EXIM Procurements Were Not Properly Documented.....	11
CONCLUSION.....	16
APPENDICES .....	17
Appendix A: Objective, Scope, and Methodology .....	17
Appendix B: Management Comments .....	19
Appendix C: Distribution List .....	23
ACKNOWLEDGEMENTS .....	24

## ABBREVIATIONS AND GLOSSARY

Term	Description
8(a)	U.S. Small Business Administration 8(a) Business Development program
EXIM	Export-Import Bank of the United States
Board	The Board of Directors, EXIM, is responsible for approving all medium- and long-term transactions over \$10 million.
CO	Contracting Officer
EDWOSB	Economically Disadvantaged Women-Owned Small Business
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
GSA	General Services Administration
IDIQ	Indefinite Delivery Indefinite Quantity
IGCE	Independent Government Cost Estimate
OASIS	One Acquisition Solution for Integrated Services
OASIS SB	One Acquisition Solution for Integrated Services – Small Business
OCS	Office of Contracting Services
OCFO	Office of Chief Financial Officer
OGC	Office of General Counsel
OI	Office of Investigations
OIG	Office of Inspector General
SBA	Small Business Association
SDVOSB	Service-Disabled Veteran-Owned Small Business
WOSB	Women-Owned Small Business

## INTRODUCTION

This report presents the results of our audit of two task orders (contracts) awarded by the Export-Import Bank of the United States (EXIM) under the U.S. General Services Administration (GSA) multiple-award, indefinite delivery/indefinite quantity (IDIQ) contracts; specifically, One Acquisition Solution for Integrated Services (OASIS) Small Business (SB) contracts. The audit reviewed the following task orders:

- Procurement Instrument Identifiers (PIID) 83310118F0023 - On May 15, 2018, EXIM awarded a firm-fixed price contract to Panum Telcom LLC (Panum) to provide subject matter expertise services to the Office of Chief Financial Officer (OCFO) for the agency's financial management system. The contract included a base year of \$415,089.96, beginning May 21, 2018, and ending May 20, 2019, and four option years totaling to \$1.75 million. To date, EXIM obligated nearly \$1.71 million and has one option year remaining.
- PIID 83310118F0037 - On September 12, 2018, EXIM awarded a firm-fixed price contract to Miracle Systems LLC (Miracle) to provide accounting services to the CFO. The contract included a base year of \$273,840 (plus a \$53,445 modification), beginning September 15, 2018, and four option years totaling \$1.17 million. To date, EXIM obligated nearly \$1.4 million (includes a deobligation of \$9,267) and has one option year remaining.

We received an anonymous complaint alleging that the task orders were awarded improperly. Accordingly, we conducted this audit of the agency's existing controls over contracts for services using GSA's multiple-award, IDIQ contracts and to determine compliance with the Federal Acquisition Regulation (FAR). This is the second audit of EXIM's contracting process conducted by the OIG.<sup>1</sup>

## SCOPE AND METHODOLOGY

To accomplish the audit objective, we reviewed applicable federal laws, regulations, and guidance, as well as EXIM's policies, procedures, and guidelines applicable to the agency's contracting process. We also interviewed EXIM officials to gain an understanding of the general contracting process for the two task orders awarded under GSA's OASIS SB contracts, and how this process relates to non-competitive contracting. To test compliance with the requirements, we reviewed the contract files for the two task orders.

We assessed the significance of internal controls necessary to satisfy the audit objective. In particular, we identified and assessed five internal control components (control environment, risk assessment, control activities, information and communication, and monitoring) and their underlying principles. Because our review was limited to these internal control components and their underlying principles; however, the review may not have disclosed all internal control deficiencies that may have existed at the time of this audit. For more details on the audit scope and methodology, see Appendix A.

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<sup>1</sup> See EXIM OIG's report on the *Audit of the Export-Import Bank's Contracting Processes* ([OIG-AR-16-05](#), March 30, 2016)

We conducted this performance audit from October 2020 through August 2022 at EXIM headquarters in Washington, D.C. The audit was suspended at times during this period due to resource availability and requirements for the completion of other OIG mission-related work. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## BACKGROUND

Federal law favors full and open competition for awarding government contracts, as competition is a critical tool for achieving the best return on the government’s investment. While federal agencies are generally required to award contracts based on full and open competition, they are permitted to award non-competitive (i.e., “sole-source” or “direct-award”) contracts in certain situations. For example, COs can limit competition to eligible 8(a)<sup>2</sup> participants to fulfill statutory requirements relating to the Small Business Act. This is known in the Federal Acquisition Regulation (FAR) as “Full and Open Competition after Exclusion of Sources.”

Contracting methods used by government agencies to streamline the procurement process include the GSA’s Multiple Awards Schedule program (other names for this program include “Schedules”, “GSA contracts”, “Federal Supply Schedules,” and the “GSA list”), as well as OASIS. Both contracts are multiple award, IDIQ contracts.

In 2014, GSA established OASIS to provide a government-wide acquisition vehicle for federal agencies to efficiently obtain complex professional services, for example, by reducing procurement administrative lead times and efforts. OASIS was comprised of both unrestricted (OASIS U) and small business (OASIS SB) contracts;<sup>3</sup> specifically, there are seven multiple-award, IDIQ base contracts that are individually referred to as pools within in each. Because the original OASIS SB multiple-award contracts were not set aside for exclusive competition amount 8(a) contractors, GSA established the OASIS SB 8(a)-only subpools in 2019. The OASIS SB 8(a)-only subpools allow direct award (including competitive) 8(a) contracts subject to the current procedures for issuing task orders (e.g., a contractor must be a current 8(a) program participant at the time of task order award to receive a direct (sole source) order).

There are no limitations on the contract types allowed (e.g., cost, time and materials, firm-fixed price, etc.) under OASIS, and the minimum order is the simplified acquisition threshold, with no maximum limit. The ordering procedures are prescribed by FAR Subpart 16.5. COs are expected to comply with the OASIS master contract terms and conditions, the OASIS ordering guide, the FAR, authorized agency supplements and exceptions, applicable

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<sup>2</sup> SBA’s 8(a) Business Development program is a business assistance program for small, disadvantaged businesses.

<sup>3</sup> OASIS U is full and open competition contract and involves bidding full and open competition task orders. OASIS SB is a 100 percent small business set-aside contract (FAR 19.502). Socio-economic set-asides (FAR 19.8 through 19.5) are allowable at the task order level under OASIS SB.

agency-specific statutes and policies, as well as any additional responsibilities defined in the OASIS Delegation of Procurement Authority (DPA).

### **EXIM'S Office of Contracting Services**

The Office of Contracting Services (OCS) is responsible for facilitating the acquisition and procurement process at EXIM, as well as issuing guidance on related agency policies. OCS acquisition processes are governed primarily by the FAR, with some limited supplemental policy issued by OCS. The FAR additionally prescribes requirements for establishing, maintaining, and disposing of contract files. OCS plans, executes, manages, and closes out procurement actions for the agency's headquarters in Washington, DC and its regional export finance centers.<sup>4</sup> The procurement mission for EXIM is:

“... [t]o acquire and manage private sector capabilities to provide the best value for the Bank, provide timely and accurate guidance for internal customers and contractors, support contract opportunities for small businesses, minorities, and women, and ensure compliance with the Federal Acquisition Regulation (FAR).”

At the time of audit, OCS possessed six full time equivalent (FTE) government appointed positions, which consisted of a Chief of Acquisition Officer, four contracting officers (COs), and four contracted contract specialists. The COs have the authority to enter, administer, and/or terminate contracts, as well as make determinations and findings related to contracts.

During fiscal years 2017 to 2019, OCS managed and executed 1,235 procurement actions involving 326 vendors valued at approximately \$133 million. The total number and dollar value of the awarded actions were 362 and \$40 million in fiscal year 2017, 401 and \$45.5 million in fiscal year 2018, and 472 and \$47.5 million in fiscal year 2019, respectively.

## **AUDIT RESULTS**

We found that EXIM improperly awarded two task orders valued at approximately \$4.1 million as 8(a) small business set-asides. We consider these tasks orders questioned costs because EXIM was not authorized to make direct awards to the selected vendors. The improper awards occurred, in part, because EXIM's existing internal controls over the contracting process for awarding task orders using the OASIS SB contract vehicle were not effective. As described below, OIG also found that the procurements were not properly documented. Specifically, COs did not document price reasonableness determinations and contract files contained incomplete documentation.

### **Finding 1: EXIM Improperly Direct Awarded Two OASIS Small Business Task Orders**

We found that EXIM improperly direct awarded two task orders to vendors Panum and Miracle under the OASIS SB contract vehicle as 8(a) small business set-asides. The agency stated it was not aware that the ability to direct award task orders for socio-economic

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<sup>4</sup> See <https://www.exim.gov/contact/regional-export-finance-centers>.

reasons using the contract vehicle was not allowed beginning in January 2018. An outdated pool listing was utilized by OCS to identify the vendors as 8(a) small businesses for direct award. Both vendors exited the SBA 8(a) Business Development program prior to acquisition planning and contract award.

OCS's position was that an internal "guidance document" (a list of OASIS SB contractors by pool and by socio-economic group)<sup>5</sup> referred to at the time of task award supported the vendors' 8(a) eligibility for direct awards. Both vendors were included in Pool 1 of the list, which stated: "In addition to 100% Small Business set-asides, Pool 1 allows for 8(a), HUBZone, Service-Disabled Veteran-Owned Small Business (SDVOSB), Economically Disadvantaged Women-Owned Small Business (EDWOSB), and Women-Owned Small Business (WOSB) competitive set-asides as well as 8(a), HUBZone, and SDVOSB direct awards."<sup>6</sup> OCS reaffirmed its position by providing the following explanation for each contract:

"For contract 83310118F0023 to PANUM, the attached basis of award describes the process as an 8(a) Small Business set-aside using GSA OASIS Pool 1 schedule, which is consistent with the award and Federal Procurement Data System (FPDS) record. For awards on OASIS to an 8(a) set-aside company, direct award (not competed) was allowed. ... the action was directly awarded, not competed, so there were no other vendor proposals."

"For contract 83310118F0037 to Miracle, the attached proposal shows Miracle as an 8(a) Small Business, once again a set-aside using GSA OASIS [pool 1] schedule, which is consistent with the award and FPDS record. As above, for awards on OASIS to an 8(a) set-aside company, direct award (not competed) was allowed. ... This was directly awarded, so there were no other vendor proposals."

However, beginning in January 2018, the GSA's OASIS Ordering Guide and the list of eligible contractors no longer allowed direct award (or sole source) for socio-economic reasons to 8(a) contractors utilizing OASIS SB contracts.<sup>7</sup> The list of eligible contractors under OASIS SB, revised as of January 2018, stated all Socio-Economic group set-asides must be competitive (no Socio-Economic Sole Source/Direct Awards allowed for Socio-Economic reasons").<sup>8</sup>

According to an OASIS Frequently Asked Question posting:

"... [the change for issuing task orders against the contract vehicle] stems from an offer and acceptance into the 8(a) Business Development BD Program per FAR 19.804 not being executed under the master contracts when the OASIS SB contracts

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<sup>5</sup> The document provided by OCS (and included in the PANUM contract file) included two lists: (1) Eligible OASIS SB Socio-Economic Set-Asides by Pool (undated); and (2) OASIS SB Socio-Economic Contractors by Pool (Revised January 2018). The undated list matches a list of eligible contractors, dated July 2014, which allowed for competitive set-asides and/or direct awards based on the socio-economic group. Conversely, the January 2018 list allows only competitive set-asides of task orders for socio-economic groups.

<sup>6</sup> Ibid.

<sup>7</sup> *Supra* Note 5 and GSA's OASIS Ordering Guide.

<sup>8</sup> Ibid.

were first awarded [in 2014]. Notwithstanding the Small Business Administration's regulations not being finalized at the time OASIS SB released its Office of Management and Budget (OMB) MAX business case and solicitation, SBA's current regulations do not allow for sole source direct 8(a) orders under Multiple Award Contracts that were not set aside exclusively for 8(a)-only competition at the contract level (e.g., 8(a) STARS)."<sup>9</sup>

However, the agency's ability to set aside orders to be competitive for 8(a) contractors remained unchanged. As confirmed by OCS, neither of the contracts were competed as they were direct awards to the two vendors, Panum and Miracle.

For multiple-award IDIQ contracts such as OASIS SB, a contracting officer (CO) is required to provide fair opportunity to all awardees for each order that exceeds the micro-purchase threshold as described at FAR 16.505(b)(1)(i), unless an exception to the fair opportunity process exists, such as set-asides for small businesses authorized by FAR 16.505(b)(2)(i)(F).<sup>10</sup> According to OCS, a CO has the discretion to set aside the orders for any small business concerns identified in FAR 19.000(a)(3). The small business concerns identified include 8(a) participants, HUBZone small business concerns, SDVOSB concerns, and EDWOSB concerns and WOSB concerns eligible under the WOSB program.

At the time of acquisition planning and contract award, both vendors had already exited the SBA's 8(a) Business Development program and were ineligible for direct award of a task order under the requirements.<sup>11</sup> Further, none of the contract files contained evidence that the vendors' 8(a) status was verified with the SBA prior to contract award. This occurred because OCS relied on the outdated 8(a) status determination by GSA in February

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<sup>9</sup> See [https://www.gsa.gov/cdnstatic/OASIS%20FAQs%20as%20of%208202018%20\(3\).xlsx](https://www.gsa.gov/cdnstatic/OASIS%20FAQs%20as%20of%208202018%20(3).xlsx). Beginning in May 2020, GSA established its first OASIS 8(a) sub-pool contracts (sub-pool 1) that were separately awarded and allowed agencies to once again direct award (includes competitive), to 8(a) contractors. Agencies are not permitted to utilize OASIS SB pools for 8(a) direct or competitive awards. They must use the respective 8(a) sub-pools.

<sup>10</sup> Reference FAR 16.505(b)(2)(i)(F): "In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in Part 19 apply."

Public notice is not required.

Lastly, a justification in writing is not required for this exception to fair opportunity (see FAR 16.505(b)(2)(ii).

<sup>11</sup> According to the GSA's OASIS Ordering Guide, "The [offer/acceptance] process outlined in FAR 19.804-6(a)'s last sentence entails verifying the OASIS SB contractor has not graduated the 8(a) program (reference 13 CFR 124.503(h)(2)(iv) 'SBA must verify that a concern is an eligible 8(a) concern prior to award of the order in accordance with §124.507.'). Thus, OASIS SB Contractors who have graduated the 8(a) program will be ineligible for award of the order."

Further, the OASIS SB contracts in 2018 had not been set aside for exclusive competition among 8(a) contractors. FAR Subpart 19.804-6.

2014 when awarding the 2018 OASIS SB base contracts.<sup>12</sup> Although the contract awardees were both previous participants in the SBA program subject to a nine-year maximum,<sup>13</sup> Panum and Miracle exited the 8(a) Business Development program on March 29, 2014, and May 25, 2015, respectively.<sup>14</sup>

In conclusion, EXIM improperly awarded two task orders under the OASIS SB contract vehicle as direct award 8(a) small business set-asides valued at approximately \$4.1 million. We question these costs because EXIM was not authorized to make direct awards to the selected vendors. The agency states that it was not aware that the ability to direct award (sole source) tasks orders for socio-economic reasons using the contract vehicle to Panum and Miracle was disallowed in 2018.

At the time, SBA did not permit sole source direct 8(a) orders under the OASIS SB contract because the multiple-award contracts were not set aside for exclusive competition among 8(a) contractors. Subsequently, GSA established OASIS 8(a) sub-pool contracts, which allow agencies to direct award (including competitive) 8(a) contracts subject to the current procedures for issuing task orders (e.g., a contractor must be a current 8(a) participant at the time of task order award to receive a direct (sole source) order).

The improper contract awards occurred because EXIM management did not establish or implement appropriate internal controls over the agency's practices for awarding IDIQ task orders under the OASIS SB contract vehicle. Specifically, EXIM lacked any guidance or procedures to ensure task orders were appropriately awarded under the FAR and OASIS Ordering Guide requirements. Moreover, EXIM did not have a process in place to ensure the most recent requirements for placing task orders were followed. As a result, the agency's actions prevented eligible small and disadvantage businesses from competing for each order.

## **RECOMMENDATIONS**

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To improve the effectiveness of EXIM's contracting process for awarding task orders using the GSA's OASIS SB, we recommend that EXIM:

1. Review the two task orders and determine whether they should be terminated and rebid to comply with the order requirements for multiple-award, indefinite delivery/indefinite quantity contracts.

### **Management Comments:**

Management agrees with this recommendation. It should be noted that both task orders in question are within their last option year with EXIM Bank. However, going

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<sup>12</sup> OASIS SB contract numbers GS00Q14OADS132 (Panum) and GS00Q14OADS 128 (Miracle). See <https://interact.gsa.gov/sites/default/files/AWARD%20NOTICE%20FOR%20OASIS%20SB%20%20-%20Awardees%20Feb2014.pdf>.

<sup>13</sup> 15 U.S.C. § 636(j)(15) (nine-year term).

<sup>14</sup> SBA Profiles obtained from SBA's Dynamic Small Business Search (DSBS) at [https://web.sba.gov/pro-net/search/dsp\\_dsbs.cfm](https://web.sba.gov/pro-net/search/dsp_dsbs.cfm).

forward, EXIM will work to improve processes to ensure that multiple award/indefinite quantity contracts are compliant with all applicable regulations and policies.

**OIG Response:**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

2. Issue supplemental guidance to increase contracting personnel's understanding of the requirements for indefinite delivery/indefinite quantity contracts; specifically, the awarding and administering of task orders pursuant to the applicable requirements (e.g., FAR, OASIS Ordering requirements).

**Management Comments:**

Management agrees with this recommendation. All of EXIM's Contracting Officers have attended training and are certified. EXIM Management will continue to explore additional training opportunities to ensure that personnel are fully aware of all applicable contracting regulations and policies.

**OIG Response:**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

3. Provide training for contracting personnel on the requirements for the awarding and administering of indefinite delivery/indefinite quantity task orders.

**Management Comments:**

Management agrees with this recommendation. EXIM has hired more experienced Contracting Officers over the last two years. Position Descriptions were updated to include mandatory requirements for experience in awarding and administering IDIQ contract vehicles, as well as knowledge and required certifications necessary to be responsive to the latest Executive Orders and initiatives. Additionally, all Contracting Officers follow required training to maintain FAC-C certification.

**OIG Response:**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

4. Ensure the timely and proper notification to SBA of proposed 8(a) program acquisitions, prior to competing and awarding those acquisitions as required by the FAR.

**Management Comments:**

Management agrees with this recommendation. In August 2022, EXIM and SBA signed an agreement partnering and delegating its contract execution functions to EXIM. With this agreement, this delegates authority to EXIM to award contracts

directly with qualified 8(a) Program Participants without SBA intervention. This agreement allows EXIM to be in line with the 8 (a) program, governed by Part 124 of SBA regulations and the Federal Acquisition Regulation subpart 19.8.

**OIG Response:**

Management’s proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

5. Confirm prospective contractors’ socio-economic status prior to contract award and perform periodic reviews of contractors’ status as applicable.

**Management Comments:**

Management agrees with this recommendation. In August 2022, EXIM and SBA signed an agreement and partnership. In addition to providing EXIM with a delegation of authority, the agreement establishes a partnership between the two agencies and set forth policies and procedures to follow in the execution of competitive and non-competitive acquisition with small disadvantaged businesses. The agreement also establishes roles and responsibilities (for both EXIM and SBA) that will serve as policy for EXIM’s OCS to follow in this area. EXIM Contracting Officers will follow these procedures as set forth.

Additionally, to ensure confirmation of prospective contractor’s socio-economic status, EXIM’s Office of Contracting Services created internal control tools to be used by Contracting Officers before award.

**OIG Response:**

Management’s proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

## **Finding 2: EXIM Procurements Were Not Properly Documented**

As described below, EXIM did not properly document its procurement processes associated with the two task orders. Specifically, we OIG found that the COs did not properly document determinations related to price reasonableness for the two task orders reviewed. In addition, contracting files we reviewed contained incomplete documentation.

### **Contracting Officer Did Not Document Price Reasonableness Determinations**

We found that the COs did not properly document determinations related to price reasonableness for the two task orders. OASIS SB contracts are multiple-award, IDIQ contracts that allow for both competitive and non-competitive task orders. For a competitive task order, an agency issues a solicitation to all qualifying contractors on the IDIQ contract. A non-competitive task order is awarded directly by the agency to a specific vendor as an “exception to fair opportunity” under FAR 16.505(b)(2), such as awards made

to small business concerns (e.g., 8(a), women-owned small business) identified in FAR 19.000(a)(3).

Further, the FAR requires COs to purchase services at prices that are fair and reasonable and to document their determination for the basis of award. It also prescribes requirements for establishing, maintaining, and disposing of contract files. Consistent with these requirements, EXIM's "User Guide for Contracting" lists the required documentation for various types of contracting actions, such as the Independent Government Cost Estimate (IGCE) for new or follow-on service requirements, as well as the process for waiving documentary requirements. The agency's guidance notes that contract files should "tell the story" of the acquisition, and that the required documents "help lay the groundwork" for this. However, the audited contracts did not fully adhere to FAR or EXIM documentation standards.

Unlike the federal supply schedules, the CO determines whether pricing for OASIS SB contracts is fair and reasonable at the task order level. For competitively solicited task orders, the CO makes the price reasonableness determination by evaluating offers and pricing data received from vendors that submit bids. For non-competitive task orders, the CO may establish price reasonableness by comparing the vendor's proposed pricing to an IGCE. The IGCE is an assessment of pricing data to determine the reasonableness of a vendor's proposed cost and understanding of the requirements of the performance work statement (PWS) or statement of work (SOW).

For the Panum and Miracle task orders, the CO compared the vendors' price proposals with the IGCEs prepared by the program area. The estimating tool used by the program office was the Contract Awarded Labor Category (CALC), a web-based tool that searches hourly rates utilizing multiple GSA and Veteran's Administration services contracts. The website states that "... for government users, note that the results do not automatically establish or determine fair and reasonable pricing for a particular labor category."

Based on this analysis performed using the CALC tool, the last CO assigned to the Panum task order signed a memo to the file stating the contract cost was fair and reasonable. However, the contract file did not contain sufficient evidence (i.e., documentation) to support that the cost for either task order was fair and reasonable. OCS was unable to provide any source data and documentation to support the methodology for the IGCE. According to GAO's Cost Estimating and Assessment Guide, estimates should be well-documented, comprehensive, credible, and accurate.

To illustrate, the IGCE for the Panum task order was based on a rate of \$175 per hour. However, the price proposal submitted by the vendor quoted \$206 per hour. The contract was executed at a rate of \$206 per hour. The contract file did not contain evidence to support the rationale of why the \$31 increase (\$175 to \$206) was supported and acceptable in determining the price reasonableness for the task order. This represented an additional cost of approximately \$322,000 to the taxpayers.<sup>15</sup>

For the Miracle task order, the contracted positions were for a Senior Accountant and Subject Matter Expert (SME). A review of the IGCE disclosed higher level positions (and

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<sup>15</sup> Assuming 26 pay periods at 80 hours per week and all option years executed.

their associated labor rates) that were or appear to be unrelated to finance/accounting were included in the estimate provided by the program office. Examples include:

- Functional Specialist/Subject Matter Expert VIII \$368.28
- Organizational Development SME V - \$505.53
- Senior Scientist/Subject Matter Expert III - \$193.42
- Health IT Subject Matter Expert - \$147.17
- National Security/Homeland Security Subject Matter Expert - \$255.47
- SME Engineer Senior - \$92.69

The contract file did not contain evidence to support the rationale for using the higher-level positions to establish price reasonableness for the task order. Further, the contract file contained evidence that the vendor may have been preselected (i.e., a notation requesting Miracle).

#### **Contract Files Contained Incomplete Documentation**

WE also found that the contract files for the Panum and Miracle task orders contained unsigned/unapproved documents and were incomplete. Neither of the contract files contained evidence that documentation requirements were waived by OCS.

Panum Contract: Three of five documents (market research, acquisition strategy/plan, and basis of award memo (i.e., justification and approval (J&A))) were unsigned by the CO assigned to the initial contract action. There is no evidence that the CO reviewed and approved the three documents.

The FAR states: “Orders placed under a task-order contract or delivery-order contract awarded by another agency (i.e., a government-wide acquisition contract, or multi-agency contract) are not exempt from the development of acquisition plans ....”<sup>16</sup>

According to OCS, a CO’s signature serves as an internal control as it authorizes a transaction under the Delegation of Procurement Authority. OCS personnel confirmed that the contracting process should not proceed without the CO’s signature.

Miracle Contract: Two of five documents (PWS and IGCE) for the Senior Accountant were completed and signed by the CO as required. However, the contract file did not contain evidence to support completion of market research, and the acquisition strategy and J&A memo were unsigned by the CO. Three of the five documents (PWS, IGCE and J&A memo) for the SME were completed and signed by the CO. However, the contract file did not contain evidence to support completion of market research and an acquisition strategy.

Although all the required documents for the task orders were not completed and signed, the COs did sign the contract documentation (i.e., Standard Form 1449, Solicitation/Contract/Order for Commercial Products and Commercial Services) necessary for the contract to proceed.

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<sup>16</sup> FAR 16.505(a)(8).

The conditions above occurred because EXIM lacks a detailed internal policy and procedures governing the performance and documentation of price reasonableness determinations, such as for IGCEs. The agency’s “User Guide for Contracting” only lists the IGCE as a required document for new or follow-on services requests. While there are multiple ways to perform an IGCE, the methodology applied should include, for example, positions that are similar in type and seniority to the position being contracted. Further, the agency lacks a comprehensive oversight and review process that ensures OCS personnel maintain complete and accurate contract files.

Absent an adequate price reasonableness determination, EXIM lacks assurance that it is purchasing services at prices that are fair and reasonable and align with the requirements of the task order. Absent a complete record of the acquisition process, there is an increased risk that the CO did not consider all relevant information in awarding the task orders. Further, insufficient record-keeping makes it difficult for OCS to provide a basis for a CO’s findings and determinations, or to demonstrate it properly administers contracts. For example, the COs for both task orders are no longer with the agency. Consequently, current OCS personnel were unable to readily provide an explanation for information in the contract files or adequately determine what occurred during the acquisition process for the two task orders. FAR 4.801(b), Government Contract File – General, states that contract files should constitute a complete history of the transaction in order to support actions taken.

## **RECOMMENDATIONS**

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To improve the effectiveness of the contract award process and maintenance of contract files, we recommend that EXIM:

6. Establish policy and procedures for preparing IGCEs. This would include ensuring all relevant source data for an IGCE is included in the contract file.

### **Management Comments:**

Management agrees with this recommendation. EXIM’s Office of Contracting Services developed internal communication tools, acquisition package templates, and training specifically identified to ensure continuous development and improvement in contracting responsibilities.

### **OIG Response:**

Management’s proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

7. Establish policy and procedures for monitoring and maintaining contract files in accordance with FAR and agency requirements. This would include, but not limited to, establishing controls to ensure that:
  - a. The rationale and decisions made are documented;
  - b. Required documents are appropriately signed and approved; and

- c. Contract files are complete (i.e., required information is captured and retained).

**Management Comments:**

Management agrees with this recommendation. OCS has developed a file policy and internal control tools for monitoring and maintaining contract files. In addition, OCS created an Acquisition Records Management plan to ensure compliance with applicable policies and regulations. EXIM Management will also implement internal control testing and quality control checks to ensure contract file completeness and maintenance.

**OIG Response:**

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

## CONCLUSION

We found that EXIM improperly awarded two task orders valued at approximately \$4.1 million as 8(a) small business set-asides. We consider these task orders as questioned costs because EXIM was not authorized to make direct awards to the selected vendors. We also found that the procurements were not properly documented. EXIM's existing internal controls over the contracting process for awarding task orders using the OASIS SB contract vehicle were not effective, and the process did not fully comply with the FAR, OASIS Ordering Guide, SBA requirements, and agency guidance. Without proper internal controls, there is an increased risk that EXIM may enter into unauthorized contracts, which violate governing laws and regulations and create an environment for waste, fraud, abuse, and/or mismanagement of funds. This report includes seven recommendations to improve the effectiveness of EXIM's contracting processes for awarding task orders and maintaining contract files.

OCS management stated that they were aware of several of the deficiencies identified and are taking steps to correct those deficiencies; however, we did not determine if the response is adequate to resolve the issues presented in this report.

## APPENDICES

### Appendix A: Objective, Scope, and Methodology

The objective of this audit was to assess the effectiveness of EXIM’s existing controls over contracts for services using the U.S. General Services Administration’s multiple-award, indefinite delivery/indefinite quantity (IDIQ) contracts and to determine compliance with the Federal Acquisition Regulation (FAR). To accomplish the audit objective, we employed a combination of qualitative and quantitative techniques, specifically:

1. Conducted interviews with EXIM staff including (but not limited to): Office of Contracting Services, Office of Ethics, Office of General Counsel, Contracting Officer Specialists, Contracting Officer Representatives and Technical Points-of-Contact/Reviewers.
2. Reviewed laws, regulations, guidelines, policies, and procedures applicable to EXIM’s contracting process for awarding task orders under multiple-award, IDIQ contracts. These include:
  - 41 United States Code Subtitle 1: Federal Procurement Policy
  - FAR
  - General Services Administration (GSA) OASIS Ordering Guide
  - GSA SB Socio-Economic Contactors by Pool listing
  - Small Business Administration Regulations
  - EXIM User Guide to Contracting
  - EXIM Contracting Officer’s Representatives Guide
  - GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs
  - GAO Standards for Internal Control for the Federal Government
3. Reviewed prior EXIM OIG contract report – Audit of the Export-Import Bank’s Contracting Process ([OIG-AR-16-05](#), March 30, 2016) and Risk Assessment of Export-Import Bank’s Purchase Card Program (Assignment No. [A-16-001-00](#), August 30, 2016)
4. Reviewed selected non-competitive contracts, and their associated contract files, and to determine if they were issued in accordance with federal and EXIM guidance.
5. Reviewed prior reports and assessments from other federal agencies that related to the federal contracting process in general, and non-competitive contracting specifically.
6. Reviewed and documented internal controls associated with EXIM’s non-competitive contracting process to determine if they were in place and effective.

In planning and performing the audit, we obtained an understanding of internal controls to the extent necessary to satisfy the audit objective. We assessed the internal control components and identified the following internal control components and underlying principles significant to the audit objective:

<b>Table 1: Internal Control Components</b>	
<b>Components</b>	<b>Underlying Principles</b>
Control Environment	Organizational structure has clearly defined roles and responsibilities.
Control Environment	Appropriate training and delegation occurred for the CO and the CO representative.
Risk Assessment	Management conducted internal and external risk assessments. Can include studies or follow ups on implementation recommendations.
Control Activities	Relevant information systems have business rules in place to ensure the transactions are properly authorized, process accurately, and that the data is valid and complete.
Information & Communication	Relevant, reliable, and timely exchange of information between program office personnel and OCS personnel.
Monitoring	Effective monitoring internal control occurs during the normal course of business. Includes periodic data reviews/reconciliations/data comparison.

We performed our audit work from October 2020 through September 2022 at EXIM headquarters in Washington, D.C. The audit was suspended at times during this period due to resource availability and requirements for the completion of other OIG mission-related work. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Appendix B: Management Comments



*Reducing Risk. Unleashing Opportunity.*

**DATE** September 20, 2022

**TO** Parisa Salehi, Inspector General, Office of Inspector General

**THROUGH** Mary Jean Buhler, SVP & Chief Financial Officer

**FROM** Adam Martinez, SVP & Chief Management Officer ADAM  
MARTINEZ

**SUBJECT** Audit of EXIM’s Contracting Process for Awarding Task Orders Under OASIS SB  
(OIG-AR-22-06)

Digitally signed by ADAM  
MARTINEZ  
Date: 2022.09.20 13:45:54 -04'00'

Dear Ms. Salehi,

Thank you for providing the Export-Import Bank of the United States (“EXIM” or “EXIM Bank”) management with the Office of Inspector General’s (“OIG”) *Audit of EXIM’s Contracting Process for Awarding Task Orders Under OASIS SB, OIG-AR-22-06*, dated September 14, 2022 (the “Report”). Management continues to support the OIG’s work which complements EXIM’s efforts to continually improve its processes. EXIM Bank is proud of the strong and cooperative relationship it has with the OIG.

EXIM Bank appreciates the OIG’s seven recommendations to improve the effectiveness of EXIM’s contracting processes for awarding task orders using the General Service Administration’s One Acquisition Solutions for Integrated Services (OASIS) Small Business contract vehicle and maintaining contract files.

We agree with the recommendations and recognize the OIG efforts to ensure EXIM’s policies and procedures continue to improve, as well as the work you do with us to protect EXIM’s interests. We look forward to working with OIG towards strengthening our working relationship and working closely with the Office of the Inspector General.

EXIM has taken significant actions to address the recommendations made the report and has provided documentation to the OIG to close recommendations based on the actions taken. In response to recommendations proposed, please find below EXIM’s actions to address and improve processes:

**Recommendation 1:** Review the two task orders and determine whether they should be terminated and rebid to comply with the order requirements for multiple-award, indefinite delivery/indefinite quantity contracts.

**Management response and actions taken:**

EXIM Management Agrees with this recommendation.

It should be noted that both task orders in question are within their last option year with EXIM Bank. However, going forward, EXIM Management will work to improve processes to ensure that multiple award/indefinite quantity contracts are compliant with all applicable regulations and policies.

**Recommendation 2:** Issue supplemental guidance to increase contracting personnel’s understanding of the requirements for indefinite delivery/indefinite quantity contracts; specifically, the awarding and administering of task orders pursuant to the applicable requirements (e.g., FAR, OASIS Ordering requirements).

**Management response and actions taken:**

EXIM Management agrees with this recommendation.

Contracting Officers authorized to initiate task orders against OASIS are certified by the General Services Administration (GSA). The certification is issued after completing training regarding OASIS procedures, rules and regulations. In addition, all of EXIM’s Contracting Officers have attended training and are certified. Further, EXIM Management will continue to explore additional training opportunities to ensure that personnel are fully aware of all applicable contracting regulations and policies.

**Recommendation 3:** Provide training for contracting personnel on the requirements for the awarding and administering of indefinite delivery/indefinite quantity task orders.

**Management response and actions taken:**

EXIM Management agrees with this recommendation.

EXIM has hired more experienced Contracting Officers over the last two years. To maintain a standard of excellence, Position Descriptions were updated to include mandatory requirements for experience in awarding and administering IDIQ contract vehicles, as well as knowledge and required certifications necessary to be responsive to the latest Executive Orders and initiatives. Additionally, all Contracting Officers follow required training to maintain FAC-C certification.

Mandatory requirements include:

- Level II FAC-C/DAWIA certification, and FAC-C III Certification training within 12 months
- All Contracting Officers should have a previously warranted issued by another agency
- Digital IT Acquisition Professional (DITAP) Program preferred.

**Recommendation 4:** Ensure the timely and proper notification to SBA of proposed 8(a) program acquisitions, prior to competing and awarding those acquisitions as required by the FAR.

**Management response and actions taken:**

EXIM Management agrees with this recommendation.

In August 2022, EXIM and the U.S. Small Business Administration (SBA) signed an agreement partnering and delegating its contract execution functions to EXIM. With this agreement, this delegates authority to EXIM to award contracts directly with qualified 8(a) Program Participants without SBA intervention. This agreement allows EXIM to be in line with the 8 (a) program, governed by Part 124 of SBA regulations and the Federal Acquisition Regulation subpart 19.8

**Recommendation 5:** Confirm prospective contractors' socio-economic status prior to contract award and perform periodic reviews of contractors' status as applicable.

**Management response and actions taken:**

EXIM Management agrees with this recommendation.

In August 2022, EXIM and the U.S. Small Business Administration (SBA) signed an agreement and partnership. In addition to providing EXIM with a delegation of authority, the agreement establishes a partnership between the two agencies and set forth policies and procedures to follow in the execution of competitive and non-competitive acquisition with small disadvantaged businesses. The agreement also establishes roles and responsibilities (for both EXIM and SBA) that will serve as policy for EXIM OCS to follow in this area. EXIM Contracting Officers will follow these procedures as set forth.

Additionally, to ensure confirmation of prospective contractor's socio-economic status, EXIM's Office of Contracting Services created internal control tools to be used by Contracting Officers before award.

**Recommendation 6:** That EXIM Establish policy and procedures for preparing IGCEs. This would include ensuring all relevant source data for an IGCE is included in the contract file.

**Management response and actions taken:**

EXIM Management agrees with this recommendation

EXIM's Office of Contracting Services developed internal communication tools, acquisition package templates, and training specifically identified to ensure continuous development and improvement in contracting responsibilities. These resources are available to all employees involved in EXIM's contracting implementation.

**Recommendation 7:** that EXIM establish policy and procedures for monitoring and maintaining contract files in accordance with FAR and agency requirements. This would include, but not limited to, establishing controls to ensure that: i) The rationale and decisions made are documented; ii) Required documents are appropriately signed and approved; and iii) Contract files are complete (i.e., required information is captured and retained).

**Management response and actions taken:**

EXIM Management agrees with this recommendation.

EXIM's Office of Contracting Services (OCS) has developed a file policy and internal control tools for monitoring and maintaining contract files. In addition, OCS created an Acquisition Records Management plan to ensure compliance with applicable policies and regulations. EXIM Management will also implement internal control testing and quality control checks to ensure contract file completeness and maintenance.

CC:

Adam Martinez, Senior Vice President and Chief Management Officer

Kenneth Tinsley, Senior Vice President and Chief Risk Officer

Mary Jean Buhler, Senior Vice President and Chief Financial Officer

Inci Tonguch-Murray, Senior Vice President and Deputy Chief Financial Officer

Maria Fleetwood, Vice President of Acquisition and Business Services

Thu Vo, Chief Acquisition Officer

## **Appendix C: Distribution List**

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Parisa Salehi, Inspector General, OIG  
Courtney Potter, Deputy AIG for Audits and Evaluations, OIG  
Jaquone Miller, Program Manager, OIG  
Amanda Myers, Senior Counsel OIG

## **ACKNOWLEDGEMENTS**

This report was prepared by the Office of Audits and Evaluations, OIG for EXIM. Several individuals contributed to this report including Jay Smith, Jahnae McCoy, Shawnell Scott, Jaquone Miller, Courtney Potter, and Jennifer Fain.

**Office of Inspector General**  
**Export-Import Bank *of the* United States**  
**811 Vermont Avenue, NW**  
**Washington, DC 20571**  
**202-565-3908**  
**[www.exim.gov/about/oig](http://www.exim.gov/about/oig)**

